IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

MISC. CIVIL APPLN.(CONTEMPT PETITION) No 2279 of 1994

in

SPECIAL CIVIL APPLICATIONNo 3531 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI
and
Hon'ble MR.JUSTICE A.M.KAPADIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

VALLABH GLASS WORKS LTD

Versus

STATE 0F GUJARAT 1

Appearance:

MR KN RAVAL for Petitioner - Absent

MR LR PUJARI, AGP for Respondent No. 1, 2

CORAM : MR.JUSTICE R.K.ABICHANDANI
and
MR.JUSTICE A.M.KAPADIA

Date of decision: 27/02/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE R.K.ABICHANDANI)

1. The applicant prays for taking appropriate action under the Contempt of Courts Act, 1971 against the respondents on the ground that they have violated the order of the High Court dated 10th July 1991 at Annexure `A' to the petition, which was made in Special Civil Application No. 3531 of 1988. From the said order dated 10th July 1991, it appears that the Company had challenged the validity of the order dated 20th June 1989 by which the Company's property was attached for recovery of the sales tax dues. The ground of challenge was that the proceedings under sections 16 and 17 of the Sick Industrial Companies (Special Provisions) Act, 1985 had been initiated by the Company before the B.I.F.R. and the case was pending before the Board and therefore, no coercive recovery be made in view of the provision of section 22(1) of the said Act. The High Court noted that, before the attachment of the property of the Company, no consent or approval of the Board was obtained by the respondents. The order of attachment dated 20th June 1989 was therefore set aside with a clarification that it would be open to the respondents to approach the Board or the Appellate Authority as the case may be, either for consent or for approval for recovery of the dues in question.

2. It appears from the affidavit in reply which has been filed on behalf of the respondents that an appeal was preferred by the State which came up before the A.A.I.F.R. on 27th May 1993 and in that appeal, the sanctioned scheme was modified, as stated in paragraph 4[f] of the affidavit in reply. A copy of the order dated 27th May 1993 is annexed with the affidavit. It is after this exercise that the order of attachment dated 29th November 1994 and notice under section 200 of the Bombay Land Revenue Code were issued by the Sales Tax Officer. According to the respondents, since the Company failed to abide by and implement the sanctioned scheme as modified by the order dated 27th May 1992 made by the A.A.I.F.R., the State Government was entitled to initiate proceedings for recovery of the tax dues by attaching the properties of the Company. It is thus clear that there has not been any violation of the order dated 10th July 1991 made in Special Civil Application No. 3531 of 1988. By that order, the attachment which was made under the order dated 20th June 1989 was set aside. Nothing is done pursuant to that order and therefore, there is no

question of any violation of the orders of the High Court. It is after a fresh proceedings before the appellate authority and a modified order that the action for attachment is taken for the recovery of the dues as the Company had failed to abide by and implement the sanctioned scheme as stated in the affidavit filed on behalf of the respondent. There is therefore no question of any willful disobedience of the orders of this Court. The petition is therefore rejected. Rule is discharged with no orders as to costs.

FEBRUARY 27, 2001 [R.K.ABICHANDANI, J.]

[A.M.KAPADIA, J.]

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